DETAILED ACTION

1. Claims **1 - 4, 6 - 14, 26, 29 - 31, 33 - 39, 50 - 60** are allowed. Claims **5, 15 - 25, 27, 28, 32, 40 - 49** have been cancelled. Claims **1, 26** are independent. This application had an interview on 6-25-2009.

EXAMINER'S AMENDMENT

2. The application has been amended as follows:

1. (Currently Amended) A method for measuring latency between a first device and a second device during a user data session, said first and second devices communicating in accordance with a communications specification, said method comprising:

transmitting, during a user data session between said first and second devices, a message from said second device to said first device, said message being in accordance with said communications specification, said communications specification associated with a mobile telephone network;

during the user data session, receiving a response message from said first device, said response message being in accordance with said communications specification;

computing, during the user data session, an elapsed time from transmission of said message to receipt of said response message to determine said latency at a per-user-per session level based on a round trip delay evidenced by the elapsed time, said latency being computed by a network

management element of the mobile telephone network and comprising at least one of a first latency component and a second latency component;

adding an accounting parameter field to a usage data record associated with the data session, the accounting parameter field comprising at least one of: an FMLT accounting parameter attribute associated with the first latency component and an FHLT accounting parameter attribute associated with the second latency component, wherein the first latency component represents a wireless access delay perceived by the network management element, and the second latency component represents an internet access delay between at least two network management elements, the usage data record provided by the communications specification, wherein the accounting parameter field extends the communications specification;

recording said latency in the accounting parameter field, the usage data record capable of being stored in computer readable memory of a server, the server configured to determine data usage in connection with the user data session and;

generating, by the server, a billing record for the user based on the latency recorded in the accounting parameter field for the user data session, the server processing the latency to bill the user based on a predetermined quality of service promised to the user.

26. (Currently Amended) A system for measuring latency during a user data session carried out in accordance with a communications specification, said communications specification associated with a mobile telephone network, the system comprising:

a first device adapted for communicating in accordance with said communications specification;

a second device comprising a network management element of the mobile telephone network and adapted for communicating with said first device in accordance with said communications specification and for transmitting a message to said first device during the user data session, receiving a response message from said first device during the user data session, computing, during the user data session, an elapsed time from transmission of said message to receipt of said response message to determine said latency at a per-user-per-session level based on a round trip delay evidenced by the elapsed time, said latency comprising at least one of a first latency component and a second latency component, and recording said latency in an accounting parameter field of a usage data record stored in a first computer readable memory; and

a server for storing the usage data record in a second computer readable memory, the server configured to determine data usage in connection with the user data session to generate a billing record for the user based on the latency recorded in the accounting parameter field for the user data session, the server

processing the latency to bill the user based on a predetermined quality of service promised to the user;

wherein said message and said response message are provided by said communications specification and said second device is capable of extending said communications specification by adding said accounting parameter field including said latency to the usage data record, the accounting parameter field comprising at least one of: an FMLT accounting parameter attribute associated with the first latency component and an FHLT accounting parameter attribute associated with the second latency component, wherein the first latency component represents a wireless access delay perceived by the network management element, and the second latency component represents an internet access delay between at least two network management elements.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Allowable Subject Matter

4. The following is an examiner's statement of reasons for allowance:

Claims **1 and 26** are allowed based on the following:

Prior art of record considered individually or in combination, fails to fairly show or suggest: computing, during the user data session, an elapsed time from transmission of said message to receipt of said response message to determine said latency at a per-user-per session level based on a round trip delay evidenced by the elapsed time, said latency being computed by a network management element of the mobile telephone network and comprising at least one of a first latency component and a second latency component;

and wherein the first latency component represents a wireless access delay perceived by the network management element, and the second latency component represents an internet access delay between at least two network management elements; and generating, by the server, a billing record for the user based on the latency recorded in the accounting parameter field for the user data session, the server processing the latency to bill the user based on a predetermined quality of service in addition to the other specific limitations in the precise manner as recited in claims **1 - 4, 6 - 14, 26, 29 - 31, 33 - 39, 50 - 60**.

Claims **2 - 4, 6 - 14, 50 - 54** are allowed due to allowed base claim **1**.

Claims **29 - 31, 33 - 39, 55 - 60** are allowed due to allowed base claim **26**.

So as indicated by the above statements, Applicant's arguments have been considered persuasive, in light of the claim limitations as well as the enabling portions of the specification. The dependent claims further limit the independent claims, and are

considered allowable on the same basis as the independent claims as well as for the further limitations set forth.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kyung H. Shin whose telephone number is (571) 272-3920. The examiner can normally be reached on 9:30 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/24/2009
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Supervisory Patent Examiner, Art Unit 2443